

Remarks

The following remarks are responsive to the May 14, 2007 Office Action.

Status of the Claims

Claims 41, 43-48, 53, 54 and 56-62 are pending.

Rejections under 35 U.S.C. § 102(b)

Under 35 U.S.C. § 102(b), Claims 41, 43 and 44 were rejected as being anticipated by U.S. Patent No. 5,618,723 (Klaenhammer), and Claims 61 and 62 were rejected as being anticipated by U.S. Publication No. 2001/0041203 (Uno) and by Japanese Publication No. 2000080025 (Muramatsu).

Klaenhammer relates to a method for producing recombinant bacterium for use in producing fermentative culture that is resistant to the appearance of a new bacteriophage. Klaenhammer discloses that bacteria used in the fermentation of dough formed from cereals include yeasts, and lactic acid bacteria of the genera *Lactobacillus*, *Lactococcus*, *Pediococcus*, and *Leuconostoc*.

Uno discloses a method of removing off-flavor from foods. The method includes adding, to food, a polymer of phenol compounds having a styrene structure. Example 4 describes the fermentation of rice with yeast and lactic acid, followed by the addition of alpha-amylase, glucoamylase, and hemicellulase, to obtain a saccharified rice liquor.

Muramatsu relates to a method for manufacturing a rice-fermented extract for a cosmetic.

Since every element must be present for a reference to anticipate, and none of the cited references discloses the specific combination of microorganisms comprising at least one *Lactobacillus*, at least one *Lactococcus*, at least one *Leuconostoc*, and at least one yeast as in Claims 41, 43 and 44, none of the references anticipates the invention, and the rejection should be withdrawn.

Reconsideration and withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 41, 43-48, 53, 54, 61 and 62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Klaenhammer in view of Uno, and further in view of Miyazaki. The above discussion of Klaenhammer and Uno is hereby reasserted herein as if set forth at length.

Miyazaki relates to a microorganism that reacts with a bean extract to produce a fermented product for a skin preparation. Miyazaki discloses that there are no specific limitations to the microorganisms that may be used. Among numerous microorganisms disclosed (col. 3, line 62, to col. 4, line 23 of Miyazaki), *Lactobacillus*, *Lactococcus*, and *Leuconostoc* may be found. The microorganisms may be combined with nutritive substances, including yeast extracts (col. 4, lines 42-46), and added to a bean extract prior to fermentation. Miyazaki does not disclose rice plants or rice extract.

None of the cited references discloses or teaches the specific combination of microorganisms comprising at least one *Lactobacillus*, at least one *Lactococcus*, at least one *Leuconostoc*, and at least one yeast as claimed. The general disclosure of microorganisms in Miyazaki does not teach one skilled in the art to select the specific combination as claimed. In addition, there is a complete lack of disclosure in Miyazaki concerning rice.

Moreover, there is no convincing line of reasoning provided as to why one skilled in the art would have found it obvious to select the specific combination as claimed. Following the procedure of Uno in Klaenhammer to make fermented rice extract, as suggested by the Examiner, would not reach the invention as claimed. To further use the pH of Miyazaki, as suggested by the Examiner, would still not reach the invention. Simply adjusting parameters as a matter of judicious selection and routine optimization, as suggested by the Examiner, would not have led one skilled in the art to select the specific combination of microorganisms as claimed, comprising at least one *Lactobacillus*, at least one *Lactococcus*, at least one *Leuconostoc*, and at least one yeast, to produce an active component with any reasonable expectation of success, absent Applicants' disclosure.

Since it would not have been obvious to one skilled in the art to substitute or select among the various elements of the references with any reasonable expectation of success, the combination of references and the reasons provided by the Examiner are insufficient to support a *prima facie* case of obviousness, and the rejection should be withdrawn. Reconsideration and withdrawal of the rejection are respectfully requested.

Fees

No fees are believed due. The Commissioner is authorized, however, to charge any fees deemed due (or credit any balance owing) to Deposit Account No. 50-1177.

Conclusion

It is respectfully submitted that Claims 41-48, 53-54 and 56-62 are in condition for allowance. A Notice of Allowance is respectfully requested. If anything further is needed to advance the allowance of this application, the Examiner is urged to contact Applicants' attorney at the telephone number indicated below.

Respectfully submitted,

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Date



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